

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JABARR PINKSTON,

Plaintiff,

v.

1:16-cv-2704-WSD

CHRISPER SPERRY, et al.,

Defendants.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Russell G. Vineyard’s Final Report and Recommendation [7] (“R&R”). The R&R recommends the Court dismiss this action without prejudice for Plaintiff Jabarr Pinkston’s (“Plaintiff”) failure to prosecute and failure to comply with lawful orders of the Court.

I. BACKGROUND

On July 25, 2016, Plaintiff filed his *pro se* Complaint [1] and a request to proceed *in forma pauperis* [2] (“IFP Application”). The IFP Application did not include (1) an authorization allowing his custodian to withdraw funds from his inmate account, (2) a completed certificate signed by an authorized institutional officer regarding the current balance in his inmate account, or (3) a copy of his inmate trust account balance for the six-month period preceding the filing of the

instant action. Accordingly, on August 1, 2016, the Magistrate Judge issued an Order [3] (“August 1st Order”) requiring Plaintiff to file, within thirty days, an amended complaint and to either pay the required court fees or submit a properly completed financial affidavit. The August 1st Order advised Plaintiff that failure to timely comply with the Order could result in dismissal of this action. (August 1st Order at 4).

On August 10, 2016, Plaintiff submitted a motion to expedite injunction [4], which listed a new address for Plaintiff. On September 8, 2016, after the copy of the August 1st Order that was mailed to Plaintiff was returned to the Court as undeliverable, the Clerk of Court mailed another copy of the Order with the necessary forms to Plaintiff at the address listed on his motion to expedite injunction. (See Clerks Certificate of Mailing, September 8, 2016). An additional thirty days passed after the Clerk of Court mailed the second copy of the Order, and Plaintiff failed to comply with the August 1st Order. On October 21, 2016, the Magistrate Judge issued an Order [6] (“October 21st Order”) directing Plaintiff, within twenty-one (21) days, to show cause why this action should not be dismissed for failure to prosecute, and reminding him that failure to respond could result in the dismissal of this action. Plaintiff failed to comply with the October 21st Order within the time period allowed.

On November 22, 2016, the Magistrate Judge issued his R&R, recommending the Court dismiss this action without prejudice for Plaintiff's failure to prosecute and failure to comply with the Magistrate Judge's August 1st and October 21st Orders. The Magistrate Judge also recommends the Court deny as moot Plaintiff's motion to expedite injunction. Plaintiff did not file any objections to the R&R, and has not otherwise taken any action in this case.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983).

Where, as here, no party objects to the R&R, the Court conducts a plain error review of the record. See United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

B. Analysis

Local Rule 41.3 authorizes the Court to dismiss a case for want of prosecution for failure to obey a lawful order of the Court. See LR 41.3(A)(2). Plaintiff failed to comply with the Magistrate Judge's August 1st Order and its

October 21st Order, after twice being advised that failure to comply would result in dismissal of this action. The Court finds no plain error in the Magistrate Judge's recommendation that the Court dismiss this action without prejudice for Plaintiff's failure to prosecute and failure to obey the Court's orders. See Slay, 714 F.2d at 1095.

III. CONCLUSION

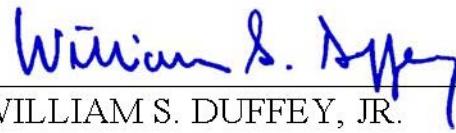
For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Russell G. Vineyard's Final Report and Recommendation [7] is **ADOPTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff's Application for Leave to Proceed *in Forma Pauperis* [2] and Motion to Expedite Injunction [4] are **DENIED AS MOOT**.

SO ORDERED this 12th day of December, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE